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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,157	06/27/2003	Hai Jiang		7873

7590 11/28/2006  
Hai Jiang  
6296 Hansen Dr.  
Pleasanton, CA 94566

EXAMINER
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LUU, PHO M

ART UNIT	PAPER NUMBER
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2824

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/609,157

Applicant(s)

JIANG, HAI

Examiner

Pho M. Luu

Art Unit

2824

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 10/23/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 32-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Search history.

### **DETAILED ACTION**

1. This office action response to the letter mail on October 23, 2006; and also, vacating the advisory letter mail on September 21, 2006 in favor of this Final Rejection.

2. Acknowledgment is made of applicant's Amendment, filed 24 February 2006.

The changes and remarks disclosed therein were considered.

3. Claims 32-34 are pending in the application.

### ***Drawings***

4. The corrected or substitute drawings were received on 18 October 2005. These drawing are acceptable.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 32-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Gilton. (US. 2003/0194865).

Regarding claim 32-34, Gilton in Figure 3 disclosed a memory device (memory cell 120) comprising:

A resistive layer with a plurality of solid electrolyte elements (110) and a metallic layer (112) and wherein the resistive layer is a layer with a plurality of solid electrolyte element (110) embedded in an insulator layer (200) and wherein the size of solid electrolyte elements (110) is in the range of about 1-50 nm (electrolyte in the range of 25-75 nm, see column 3, paragraph 0037).

### ***Response to Arguments***

7. Applicant's arguments filed on 24 February 2006 have been fully considered but they are not persuasive.

Applicant argues, on page 2, paragraph 1, that Gilton fail to disclose a resistive layer with "a plurality of solid electrolyte" embedded therewithin and metal layer thereon.

Examiner disagrees. Gilton discloses a metal film (112) is deposited over a resistive layer (110) formed of electrolyte element, see paragraph 0024. Applicant has not claimed any specific arrangement or types of electrolyte elements.

Applicant argues, on page 2, paragraph 2, that the memory cell of Gilton includes only pillar. The pillar structure of Gilton is completely different from the cell structure of applicant.

Examiner disagrees. Applicant has not claimed any specific configuration to differentiate the claimed structure from that shown by Gilton.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Pho M. Luu whose telephone number is 571.272.1876. The examiners can normally be reached on M-F 8:00AM – 5:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Richard Elms, can be reached on 571.272.1869. The official fax number for the organization where this application or proceeding is assigned is 703.872.9306 for all official communications.

The information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

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<http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PML

21 November 2006.



11/22/06

TUAN T. NGUYEN  
PRIMARY EXAMINER